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May 5, 2008

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2008 MAY -7 12:23

VIA E-MAIL & U.S. MAIL

Michael P. McCann
Supervising Engineer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Re: **SDG&E's Settlement Conference Objections**
Shipyard Sediment Site, San Diego Bay
Tentative Cleanup and Abatement Order No. R9-2005-0126

Dear Mr. McCann,

On behalf of San Diego Gas and Electric ("SDG&E"), we respectfully submit the following objections and comments with regard to the Presiding Officer's participation as mediator at the May 16, 2008 Settlement Conference concerning the above-referenced matter.

As previously stated at the April 25th Third Pre-Hearing Conference, SDG&E does not object to Mr. King's role as mediator, and is willing to waive ex parte rules for Mr. King with regard to any settlement communications made during the Settlement Conference. However, SDG&E hereby objects to the disclosure of any confidential settlement communications between Mr. King and SDG&E – including SDG&E's confidential settlement memorandum – with the Advisory Team.

Since the Advisory Team will remain actively involved in advising the Regional Board in all adjudicatory proceedings concerning this matter, disclosure of any confidential settlement information could substantially prejudice the rights of SDG&E or other Designated Parties. Additionally, the potential for any such disclosures to the Advisory Team and remaining Regional Board members may undermine the purpose of the Settlement Conference by inhibiting open, candid discussions.

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To resolve this issue, SDG&E respectfully requests that Mr. King, in his capacity as mediator, agree at the outset of the Settlement Conference to maintain SDG&E's settlement memorandum in confidence, and to refrain from disclosing the substance of any confidential settlement communications with SDG&E to either the Advisory Team, or any other Designated Party, without first obtaining SDG&E's express consent.

We appreciate your consideration of these comments. Should you have any questions, please feel free to contact Jill Tracy or me.

Very truly yours,



Peter A. Nyquist
WESTON, BENSHOOF,
ROCHEFORT, RUBALCAVA & MacCUISH LLP

PAN/nh

cc: Advisory Team, c/o Michael P. McCann (12 copies)
Cleanup Team, c/o David Barker, Regional Water Quality Control Board
Presiding Officer, David King, Regional Water Quality Control Board
Jill Tracy, Esq., Sempra/SDG&E
See Attached E-Mail Service List